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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:

Case No. *2013-599*

13 **CAROLINE CHI**

STATEMENT OF ISSUES

14 **Registered Nurse License Applicant**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
20 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about November 18, 2011, the Board of Registered Nursing, Department of
23 Consumer Affairs received an application for a Registered Nurse License from Caroline Chi
24 (Respondent). On or about November 16, 2011, Caroline Chi certified under penalty of perjury
25 to the truthfulness of all statements, answers, and representations in the application. The Board
26 denied the application on August 21, 2012.

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JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2736 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

STATUTORY PROVISIONS

5. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

6. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

1 (3)(A) Done any act that if done by a licentiate of the business or profession in
2 question, would be grounds for suspension or revocation of license.

3 (B) The board may deny a license pursuant to this subdivision only if the crime
4 or act is substantially related to the qualifications, functions, or duties of the business
5 or profession for which application is made.

6 (b) Notwithstanding any other provision of this code, no person shall be denied
7 a license solely on the basis that he or she has been convicted of a felony if he or she
8 has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with
9 Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been
10 convicted of a misdemeanor if he or she has met all applicable requirements of the
11 criteria of rehabilitation developed by the board to evaluate the rehabilitation of a
12 person when considering the denial of a license under subdivision (a) of Section 482.

13 (c) A board may deny a license regulated by this code on the ground that the
14 applicant knowingly made a false statement of fact required to be revealed in the
15 application for the license.

16 7. Section 482 of the Code states:

17 Each board under the provisions of this code shall develop criteria to evaluate
18 the rehabilitation of a person when:

19 (a) Considering the denial of a license by the board under Section 480; or

20 (b) Considering suspension or revocation of a license under Section 490.

21 Each board shall take into account all competent evidence of rehabilitation
22 furnished by the applicant or licensee.

23 8. Section 493 of the Code states:

24 Notwithstanding any other provision of law, in a proceeding conducted by a
25 board within the department pursuant to law to deny an application for a license or to
26 suspend or revoke a license or otherwise take disciplinary action against a person who
27 holds a license, upon the ground that the applicant or the licensee has been convicted
28 of a crime substantially related to the qualifications, functions, and duties of the
licensee in question, the record of conviction of the crime shall be conclusive
evidence of the fact that the conviction occurred, but only of that fact, and the board
may inquire into the circumstances surrounding the commission of the crime in order
to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority,"
and "registration."

9. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or
deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the
following:

.....
(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

.....
10. Section 2762 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

.....
(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

.....
11. Section 2765 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

1 (a) Assaultive or abusive conduct including, but not limited to, those violations
2 listed in subdivision (d) of Penal Code Section 11160.

3 (b) Failure to comply with any mandatory reporting requirements.

4 (c) Theft, dishonesty, fraud, or deceit.

5 (d) Any conviction or act subject to an order of registration pursuant to Section
6 290 of the Penal Code.

7 13. California Code of Regulations, title 16, section 1445 states:

8 (a) When considering the denial of a license under Section 480 of the code,
9 the board, in evaluating the rehabilitation of the applicant and his/her present
10 eligibility for a license will consider the following criteria:

11 (1) The nature and severity of the act(s) or crime(s) under consideration as
12 grounds for denial.

13 (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s)
14 under consideration as grounds for denial which also could be considered as grounds
15 for denial under Section 480 of the code.

16 (3) The time that has elapsed since commission of the act(s) or crime(s)
17 referred to in subdivision (1) or (2).

18 (4) The extent to which the applicant has complied with any terms of parole,
19 probation, restitution, or any other sanctions lawfully imposed against the applicant.

20 (5) Evidence, if any, of rehabilitation submitted by the applicant.

21 **FIRST CAUSE FOR DENIAL OF APPLICATION**

22 **(November 30, 2011 Criminal Conviction for DUI on October 17, 2011)**

23 14. Respondent's application is subject to denial under sections 480, subdivision (a)(1)
24 and 2671, subdivision (f) of the Code in that she was convicted of a crime that is substantially
25 related to the qualifications, duties, and functions of a registered nurse. The circumstances are as
26 follows:

27 a. On or about November 30, 2011, in a criminal proceeding entitled *People*
28 *of the State of California v. Caroline Chi*, in Los Angeles County Superior Court, case number
1MP11113, Respondent was convicted on her plea of nolo contendere to violating Vehicle Code
section 23152, subdivision (a), driving under the influence (drugs), a misdemeanor. The court
dismissed Count 2 of the complaint, a violation of Health and Safety Code section 11550,

1 subdivision (a), under the influence of a controlled substance, because test results were not
2 available.

3 b. As a result of the conviction, on or about November 30, 2011, Respondent
4 was granted 36 months summary probation, and ordered to serve 13 days in the Los Angeles
5 County Jail, or perform 13 days of community labor in lieu of jail. Respondent was further
6 ordered to complete a three-month Licensed First-Offender Alcohol and Other Drug Education
7 and Counseling Program and a MADD Victim Impact Panel session, pay \$1,918 in fees, fines and
8 restitution, and comply with standard DUI probation conditions.

9 c. The facts that led to the conviction are that on or about the afternoon of
10 October 17, 2011, a patrol officer with the Los Angeles Police Department was dispatched to
11 investigate a citizen's call concerning a possible DUI driver (Respondent) who was stopped at an
12 intersection while the stoplights phased through three cycles. A witness stated that Respondent
13 had been weaving, and had collided with the curb at least three times. Upon arrival, the officer
14 made contact with Respondent; she appeared disoriented and had a blank stare. Respondent was
15 removed from her vehicle because she was non-responsive. While attempting to obtain a
16 statement from Respondent, the officer observed that Respondent had the objective symptoms of
17 intoxication: lack of coordination, flushed face, pin-point pupils, disorientation, and twitching
18 hands/fingers. Respondent was unable to respond to any questions or commands. Respondent
19 provided two breath samples which were negative for blood alcohol. Respondent was arrested for
20 driving under the influence. In a search of her vehicle incident to the arrest, officers found the
21 prescription medications hydrocodone and sertraline.

22 **SECOND CAUSE FOR DENIAL OF APPLICATION**

23 **(Dangerous Use of Prescription Medications)**

24 15. Respondent's application is subject to denial under sections 480, subdivision (a)(3)(A)
25 of the Code in that on or about October 17, 2011, Respondent used a combination of prescription
26 medications and controlled substances to an extent or in a manner that was dangerous and
27 injurious to herself and the public when she operated a motor vehicle while significantly

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1 impaired, as described in paragraph 14, above. Such unprofessional conduct would be a ground
2 for discipline under section 2762, subdivision (b) of the Code for a licensed registered nurse.

3 **THIRD CAUSE FOR DENIAL OF APPLICATION**

4 **(Conviction of a Drug-Related Offense)**

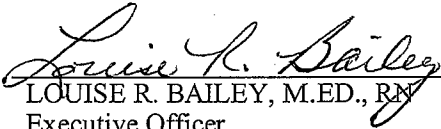
5 16. Respondent's application is subject to denial under sections 480, subdivision (a)(3)(A)
6 of the Code in that on or about November 30, 2011, Respondent was convicted of a criminal
7 offense involving the consumption of prescription drugs/controlled substances as described in
8 paragraph 14, above. Such unprofessional conduct would be a ground for discipline under
9 section 2762, subdivision (c) of the Code for a licensed registered nurse.

10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Registered Nursing issue a decision:

- 13 1. Denying the application of Caroline Chi for a Registered Nurse License;
14 2. Taking such other and further action as deemed necessary and proper.

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16
17 DATED: JANUARY 31, 2013


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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